

PETITION FOR WRIT OF HABEAS CORPUS: 28 USC §2241 (Rev. 10/10)
ADOPTED BY THE U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS

DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

FILED

JUN 22 2015

CLERK, U.S. DISTRICT COURT
By _____ Deputy _____

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

FORT WORTH DIVISION



PETITION FOR WRIT OF HABEAS CORPUS
UNDER 28 U.S.C. § 2241

Irwin A. Schiff

PETITIONER

(Full name of Petitioner)

FCI Fort Worth, Texas

CURRENT PLACE OF CONFINEMENT

vs.

08537-014

PRISONER ID NUMBER

Rodney Chandler, Warden

RESPONDENT

(Name of TDCJ Director, Warden, Jailor, or
authorized person having custody of Petitioner)

4-15 CV-454-Y

CASE NUMBER

(Supplied by the District Court Clerk)

INSTRUCTIONS - READ CAREFULLY

1. The petition must be legibly handwritten or typewritten, and signed and dated by the Petitioner, under penalty of perjury. Any false statement of an important fact may lead to prosecution for perjury. Answer all questions in the proper space on the form.
2. Additional pages are not allowed except that ONE separate additional page is permitted in answering question 10.
3. Receipt of the \$5.00 filing fee or a grant of permission to proceed *in forma pauperis* must occur before the court will consider your petition.
4. If you do not have the necessary filing fee, you may ask permission to proceed *in forma pauperis*. To proceed *in forma pauperis*, (1) you must sign the declaration provided with this petition to show

that you cannot prepay the fees and costs, and (2) if you are confined in TDCJ-CID, you must send in a certified *In Forma Pauperis* Data Sheet form from the institution in which you are confined. If you are in an institution other than TDCJ-CID, you must send in a certificate completed by an authorized officer at your institution certifying the amount of money you have on deposit at that institution. If you have access or have had access to enough funds to pay the filing fee, then you must pay the filing fee.

5. Only one sentence, conviction, disciplinary proceeding, or parole matter may be challenged in a single petition. If you challenge more than one, you must do so by separate petition(s).
6. Mail the completed petition and one copy to the U. S. District Clerk. The "Venue List" in your unit law library lists all of the federal courts in Texas, their divisions, and the addresses for the clerk's offices.
7. It is your responsibility to immediately notify the court in writing of any change of address. Failure to notify the court of your change of address could result in the dismissal of your case.

PETITION

PLEASE COMPLETE THE FOLLOWING: (check the appropriate number)

This petition concerns:

1. pretrial detention;
2. a conviction;
3. a sentence;
4. jail or prison conditions;
5. a prison disciplinary proceeding;
6. parole or mandatory supervision;
7. time credits;
8. other (specify): _____

Have you pursued to completion all relevant state and/or prison administrative remedies relevant to your complaint(s) before filing this petition. Yes No If yes, what was the date of the result and the result of any such proceeding. If no, explain why you have not pursued all such remedies. Ninth Circuit Direct Appeal of Conviction (Consolidated Cases) - 06-10199:

Mandate Issued- 4-29-08 (Affirmed in part, Reversed in part and Remanded. [Entered 12/26/2007]).

USDC CASE #: 2:09-cv-01274-KJD 28:2255 Motion to Vacate / Correct Illegal Sentence: Denied

COA Docket # 08-10408: Date Disposed:06/11/2010 Disposition: Affirmed- Memorandum.

COA Docket # 12-17712 (2510 Vacate Sentence 2255hc) Termed: 11/07/13, Mandate Issued: 02/25/14.

1. Place of detention: FEDERAL CORRECTIONAL INSTITUTION FORT WORTH, TEXAS
P.O. Box 15330, Fort Worth, Texas 76119
2. State the offense with which you have been charged and whether you have been convicted of the charged offense(s) or whether you are still awaiting trial: Count 17: 26 U.S.C. Section 7201
Attempt to Evade And Defeat Payment of Tax For Years 1979-1985. (Convicted)
3. Name and location of court in which your case is pending or in which you were convicted:
United States District Court for the District of Nevada, Las Vegas
333 Las Vegas Boulevard South, Las Vegas, Nevada 89101
4. The criminal docket or case number and the offense(s) for which you have been charged or convicted: 2:04-CR-00119-KJD(LRL) Count 1: 18 U.S.C. Sec. 371; Counts 2 - 10: 26 U.S.C. Sec. 7206(2); Count 17: 26 U.S.C. Sec. 7201; Counts 18-23: 26 U.S.C. Sec. 7206(1)
5. If you have been convicted of the charged offense(s), the date upon which sentence was imposed and the length of the sentence: 02-24-2006: 152 Months

6. Check whether a finding of guilty was made:
 - a. after a plea of guilty
 - b. after a plea of not guilty ✓
 - c. after a plea of nolo contendere
7. If you were found guilty, check whether that finding was made by:
 - a. a jury ✓
 - b. a judge without a jury
8. Did you appeal from the judgment of conviction or the imposition of sentence?
✓ Yes No

9. If you did appeal, give the following information for each appeal:

a. (1) Name of court and docket or case number:

Ninth Circuit Court Of Appeals No. 06-10199

(2) Result and date of result: AFFIRMED December 26, 2007

(3) Grounds raised (list each):

(a) Petitioner's competency to stand trial, declaring that his waiver of

counsel was not knowing or voluntary

(b) Abuse of judicial discretion holding Petitioner in contempt of court;

the substantive reasonableness of the sentence;

(c) Refusal of the judge to recuse himself despite his stated accusation

holding Petitioner responsible for threats made against him by others;

(d) Insufficiency of the evidence, and, the unfairness of trial due to

judge's failure to timely rule on pre-trial motions and disparaging remarks

b. (1) Name of court and docket or case number:

United States District Court for the District of Nevada, Las Vegas

Case No. 2:09-CV-01274-KJD (habeas corpus 28 U.S.C. Sec. 2255)

(2) Result and date of result: DENIED September 21, 2012

(3) Grounds raised (list each):

(a) Ineffective Assistance of Appellate Counsel

(b) Exclusion of Evidence of Mental Disorder

(c) Exclusion of Certain Evidence at Trial

(d) Pronouncement of Sentence inconsistent with Judgment of Conviction

10. State concisely every ground on which you claim that you are held unlawfully. Summarize briefly the facts supporting each ground. If necessary, attach a single page only behind page 6.

CAUTION: If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date. You must state facts, not conclusions, in support of your grounds. Do not argue or cite law. Just state the specific facts that support your claim. Legal arguments and citation to cases or law should be presented in a separate memorandum.

a. **GROUND ONE:**

Conviction on Count 17, (26 U.S.C. Sec.7201), cannot stand as a matter of law based upon the statutory requirement that a deficiency existed for each of the years at issue, 1979 - 1985.

Supporting facts: The evidence at trial proved that no deficiency notice was issued by the Secretary, (or the agency), for any of the years charged in the criminal indictment. Please refer to Memorandum of Law in support of this petition.

b. **GROUND TWO:**

Constitutional Due Process Violations involving abuse of judicial discretion in continuing to exercise jurisdiction for 11 months while Petitioner's Motions challenging jurisdiction were filed and awaiting the court's disposition; and, the judge's complete failure to address the issues raised challenging the court's subject matter jurisdiction.

Supporting facts: The district court did not address any of the issues raised in Petitioner's four pre-trial motions challenging jurisdiction when finally issuing an Order claiming jurisdiction 11 months after the magistrate's report, denying Petitioner right of interim appeals; and, the Court failed to instruct the jury on the theory of the defense respecting the legislative definition of the

word "income" as used in Internal Revenue Code Section 61.

Please see the attached Memorandum of Law with the supporting documentation.

c. **GROUND THREE:** Ineffective assistance of defense counsel on Appeal of the conviction.

Supporting facts: Attorneys filing the Section 2255 Petition and on the Appeal refused to present the defense as held by the Petitioner, instead, attorneys overruled the Petitioner's defense by the supplanting of issues not approved by Petitioner and not raised in the original case.

d. **GROUND FOUR:** Prosecutorial misconduct and misfeasance tantamount to jury tampering, violated Petitioner's right to due and fair process before a jury of his peers.

Supporting facts: At trial, especially during the course of final summation before the jury, the government prosecutor misled the jury regarding the Ninth Circuit case "the Long decision"; misstated the testimony; and, using sophistry, filled in the blanks missing from the case in chief suggesting that the want of evidence had been presented to the jury.

11. Relief sought in this petition: Petitioner prays for a writ of habeas corpus relief, releasing him from federal custody immediately.

12. Have you filed a previous application or petition for habeas corpus or any other application, petition or motion with respect to the grounds raised in this petition?

13. If your answer to Question No. 12 is yes, give the following information as to each previous application, petition, or motion:

a. (1) Name of court and docket or case number: USDC District of Nevada, Las Vegas,

No. 2:09-cv-01274-KJD

(2) Result and date of result: Petition Denied:

(3) Grounds raised (list each):

(a) Petitioner was denied Sixth Amendment right to the effective

assistance of counsel on direct appeal, (grounds 1 through 3);

(b) Trial record demonstrates the Court erroneously excluded otherwise admissible evidence relevant to the defense.

(c) The Judgment of Conviction, imposing a sentence of 151 months, is inconsistent with the oral pronouncement of sentence of 115 months.

(d)

b. (1) Name of court and docket or case number: Already named in the questions above.

(2) Result and date of result:

(3) Grounds raised (list each):

(a) shouldn't have been allowed to represent himself

(b) _____

(c) _____

(d) _____

14. If applicable, state whether you have filed a motion under 28 U.S.C. § 2255, and if you filed such a motion and it was denied, state why your remedy by way of such motion is inadequate or ineffective to test the legality of your detention.

Issues herein were not raised in the 2255 because the attorneys did not give reasons why the

11-month delay in ruling on jurisdiction violated Petitioner's right to interim appeals before the
start of the trial.

Attorney concerned with sanctions by court: Attorney would have had to withdraw in order for
Petitioner to raise the issues presented in this 2241 Petition.

The government did not respond and the court did not address the issue, dismissing it as
"frivolous".

15. Are you presently represented by counsel? Yes No
If so, name and telephone number of attorney: _____

16. If you are seeking leave to proceed *in forma pauperis*, have you completed an application setting forth required information? Yes No

Wherefore, Petitioner prays that the Court grant him the relief to which he may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct
and that this Petition for a Writ of Habeas Corpus was ~~placed in the prison mailing system on~~
June 20, 2015 (month, day, year).

Placed in the U.S. Post Office receptacle in Las Vegas, NV.

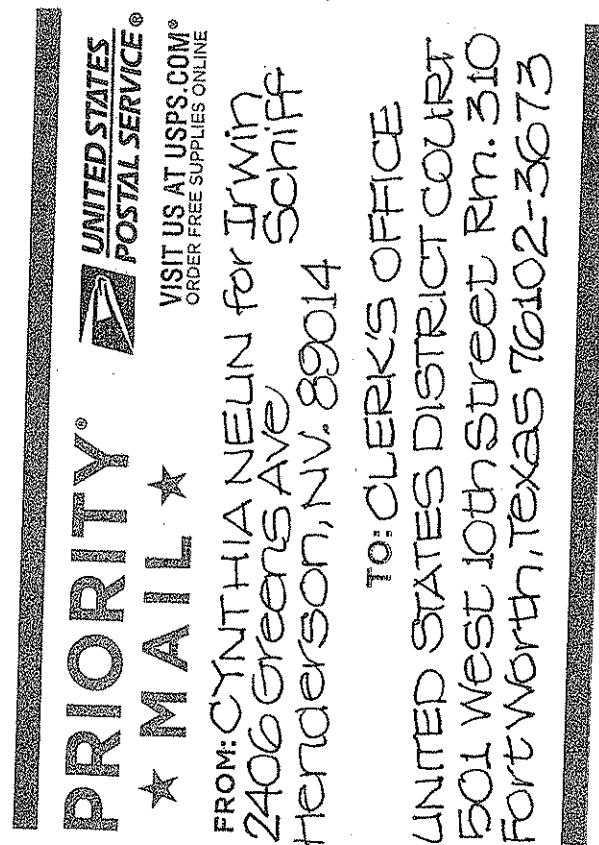
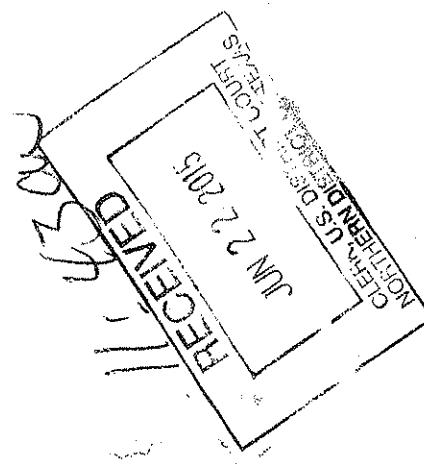
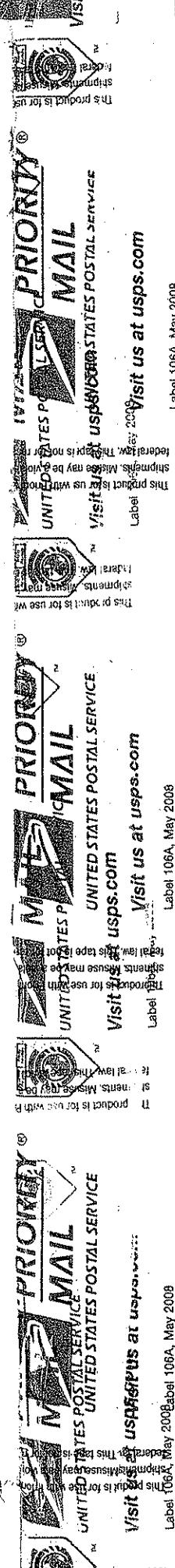
Executed (signed) on June 20, 2015 (date).



Signature of Petitioner (required)

Petitioner's current address:

Irwin A. Schiff, Reg. NO. 08537-014
Federal Correctional Institution
P.O. Box 15330
Fort Worth, TX 76119



FOR DOMESTIC AND INTERNATIONAL USE

Label 228, July 2013